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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT PAPER NUMBER

2623

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/748,304

Applicant(s)

DUAN ET AL.

Examiner

Dominic D. Saltarelli

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-114 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-22 and 47-90 is/are allowed.  
6) ☒ Claim(s) 23,46,91 and 114 is/are rejected.  
7) ☒ Claim(s) 24-45 and 92-113 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed July 8, 2005 have been fully considered but they are not persuasive. Applicant argues that Day does not teach the amended limitation of "if said requested digital data file has been previously segmented, a new segment size list is compared to an existing segment size list" (applicant's remarks, pages 71-72).
2. In response, examiner notes that this claimed limitation is a conditional based on whether a data file has been previously segmented, and wherein if said file has not been previously segmented, then there is no comparison of size lists taking place. This being said, the segmentation apparatus of Day meets all of the claimed limitations when segmenting a file that has not been previously segmented.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23, 46, 91, and 114 are rejected under 35 U.S.C. 102(b) as being anticipated by Day et al. (5,996,015, submitted by applicant, March 9, 2001) [Day].

Regarding claims 23 and 91, Day discloses a digital video data service system (fig. 1, server system 107, 109, 111) in communication with a plurality of

computer systems (fig. 1, clients 101) to provide digital video data files to one of the computing systems (multimedia assets, col. 3, lines 39-65), comprising:

A plurality of digital video data file storing devices (fig. 2, multimedia server 201, col. 4, lines 24-29 contains file system 215 which is comprised of a plurality of disks for storing digital data) in communication with each other and with any of the plurality of computing systems (as shown in fig. 2) for storing a plurality of dynamically generated segments of said provided data file, said segments stored within said plurality of digital data file storage devices to facilitate transfer of said provided data file to one of the plurality of computing systems (multimedia assets are “striped” across plural disks in the file system for optimized performance, col. 4, lines 24-30); and

A segmentation apparatus (data pump 213 in fig. 2) in communication with the plurality of digital video data file storage devices, which, at a request of any of the digital video data files, dynamically fragments any requested digital video data file into a plurality of segments to facilitate transfer to and processing by one of the computing system of said segments (col. 6, lines 9-25), wherein if said requested digital data file has been previously segmented, a new segment size list is compared to an existing segment size list (when a file is requested for the first time, there is no comparison of segment size lists, thus the disclosure of Day still applies).

Regarding claims 46 and 114, Day discloses the systems of claims 23 and 91, wherein the digital data is a video file to be transferred isochronously to the computing system (the “commonization” process is used to ensure a constant transfer bit rate, col. 5 line 53 – col. 6 line 25).

### ***Allowable Subject Matter***

5. Claims 1-22 and 47-90 are allowed.
6. Claims 24-45 and 92-113 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The allowed subject matter is the step of comparing the new segment size list to the existing segment size list for each request for each digital data file **in combination with all other claimed limitations found in claims 1, 24, 47, and 92**. The relevant prior art does not teach or suggest performing a comparison step to determine if either the existing segment size list or the new segment size list for the storage of a file provides a more facilitated transfer of a digital data file for every request for every available file.

### ***Conclusion***

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

Art Unit: 2623

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Art Unit: 2623

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
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DS

  
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